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**Economic Development,  
Agriculture & Trade Committee**

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**HB 1745**

**Brief Description:** Providing a financing mechanism to promote economic development.

**Sponsors:** Representative Santos.

<p><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Modifies the existing community revitalization financing program.</li></ul>
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**Hearing Date:** 2/16/05

**Staff:** Tracey Taylor (786-7196).

**Background:**

Currently, counties, cities, towns, and port districts are authorized to create tax increment areas within their boundaries where community revitalization projects and programs are financed by diverting a portion of the regular property taxes imposed by local governments within the tax increment area.

Community revitalization projects and programs include:

- Traditional infrastructure improvements, such as: (1) street and road construction and maintenance; (2) water and sewer system construction; (3) sidewalks and streetlights; (4) parking, terminal, and dock facilities; (5) park and ride facilities of a transit authority; (6) storm water and drainage systems; and (7) park and recreation facilities.
- Environmental analysis, professional management, planning, and promotion, management and promotion of retail trade activities, maintenance and security for common areas, and historic preservation.

The creation of a tax increment area involves a number of steps, as follows:

- The county, city, town, or port district adopts an ordinance designating the tax increment area within its boundaries and specifies the public improvements to be financed;
- The tax increment area may not be established unless the local government taxing districts (not including the state) imposing at least 75 percent of the regular property taxes within this area sign written agreements approving the tax increment financing;

- A public hearing on the proposal is held;
- Any fire protection district with territory located in the increment area must approve the creation of the increment area; and
- The county, city, town, or port district adopts an ordinance establishing the tax increment finance area.

Public hearings must be held on the proposed financing of the public improvements through community revitalization financing. The local government must then enact an ordinance:

- (1) establishing the increment area;
- (2) describing the public improvements;
- (3) describing the boundaries of the increment area;
- (4) estimating the cost of the public improvements and portion of these costs to be financed by community revitalization financing;
- (5) estimating the time during which regular property taxes are to be apportioned to finance the public improvement costs associated with the public improvements financed in whole or in part by the community revitalization financing; and
- (6) providing the date when the apportionment of regular property taxes will commence and the benefits will be met.

A county, city, town, or port district may pledge and use the diverted regular property tax collections to pay principal and interest on general obligations issued to finance the community revitalization projects and programs. A non-public participant may be required to provide security to protect the public investment in the tax increment area.

Regular property taxes imposed by all local governments within the tax increment area on 75 percent of any increase in assessed valuation occurring in that area after its creation are diverted to finance the projects. Regular property taxes imposed by any local government on all of the remaining value (the assessed valuation in the year before the tax increment area was created plus 25 percent of any increase in assessed valuation in the tax increment area) are distributed to the local governments as if the tax increment area had not been created.

The state's property taxes are not affected. Most regular property taxes imposed by port districts and public utility districts are subject to this potential diversion, but port district and public utility district regular property tax levies that are allowed specifically for bond retirement purposes are not affected.

The projects financed by property tax increment financing must be expected to encourage private development and increase the fair market value of real property within the tax increment area. Private development that is anticipated to occur within the tax increment area as a result of the public improvements must be consistent with the countywide planning policy adopted by the county under the Growth Management Act (Act) and the county's, city's, or town's comprehensive plan and development regulations adopted under the Act.

**Summary of Bill:**

The purpose of community revitalization financing is expanded to encourage the growth of viable communities based on an appropriate balance of residential and commercial development and to

promote the implementation of comprehensive plans developed pursuant to the Planning Enabling Act. The purpose of the community revitalization financing is further clarified as to specifically include local jurisdictions that contain blighted areas within urbanized areas.

#### The Increment Area

An increment area is defined as the geographic area from which taxes are to be appropriate to finance the authorized public improvements.

The increment value is 75 percent of any increase in assessed value of real property in an increment area due to the placement of new construction and improvements to the property after the increment area is created. The construction or improvements must occur entirely after the increment area is created to land that was on the assessment rolls prior to the creation of the increment area.

Beginning July 1, 2005, there are new restrictions on increment areas. First, the taxable real property within the increment area boundaries may not exceed \$1 billion in assessed value. Second, the average value per square foot of the taxable land within the increment area must not exceed \$70. An increment area must contain contiguous tracts, lots, pieces or parcels of land and the boundaries may not be drawn as to purposely exclude parcels where economic growth is unlikely. Finally the increment area must meet the definition of a blighted area.

Taking the definition from the Community Renewal Law, a blighted area is defined as an "area which, by reason of the substantial physical dilapidation, deterioration, defective construction, material, and arrangement and/or age or obsolescence of buildings or improvements, whether residential or nonresidential, inadequate provision for ventilation, light, proper sanitary facilities, or open spaces as determined by competent appraisers on the basis of an examination of the building standards of the municipality; inappropriate uses of land or buildings; existence of overcrowding of buildings or structures; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility or usefulness; excessive land coverage; insanitary or unsafe conditions; deterioration of site; existence of hazardous soils, substances, or materials; diversity of ownership; tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; improper subdivision or obsolete platting; existence of persistent and high levels of unemployment or poverty within the area; or the existence of conditions that endanger the life or property by fire or other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime; substantially impairs or arrests the sound growth of the municipality or its environs, or retards the provision of housing accommodations; constitutes an economic or social liability; and/or is detrimental, or constitutes a menace, to public health, safety, welfare, or morals in its present condition and use."

#### Uses of Community Revitalization Financing Funds

Funding priorities are established for increment areas created after July 1, 2005. First, the funding must be used to meet projected housing needs for the area as defined in the local comprehensive plan. Second, the funding must be used to address any imbalance between jobs and housing as identified in the local comprehensive plan. Third, the funding may be used to meet other local priorities, including economic development.

Community revitalization financing funds may only be used in areas where, absent the funds from the community revitalization financing, the proposed development or redevelopment would not otherwise occur.

Community revitalization finance funding may not be used to finance public facilities funded with sales and use taxes. It cannot be used to replace other sources of funding that have historically been dedicated or allocated to public improvement costs. Unless the funds are used for historical preservation activities, the public improvement projects funded by community revitalization financing must be identified within the capital facilities, utilities, housing or transportation elements of a jurisdiction's comprehensive plan.

Community revitalization financing funds may not be used to support projects where the primary purpose is the development of commercial or office space, hotel or convention centers, sports or entertainment complexes, industrial parks, or retail or shopping centers. In addition, the funds may not be used to relocate a Washington business from outside the increment area into the increment area.

Public improvements that may be financed by community revitalization financing can no longer include environmental analysis, professional management, planning, and promotion within the increment area, including the promotion and management of retail trade activities in the increment area. The financing may also not be used for providing maintenance and security for common or public areas in the increment areas. However, community revitalization financing may be used for facilities and improvements that support affordable housing and may include the costs of land acquisition, land clearing and demolition.

#### Process

In order for a local government to finance public improvement using community revitalization financing it must enter or expect to enter into a contract with a private developer relating to the development of private improvements within the increment area. The receipt of a letter of intent from a private developer may also suffice. The governing body of the local government must make a finding that the public improvements to be financed in whole or in part using community revitalization financing are reasonably likely to:

- Improve the viability of existing communities that are based on mixed-use development within the increment area;
- Increase private residential and commercial investment within the increment area;
- Increase the employment within the increment area; and
- Generate tax allocation revenues that are equal or greater than the local contributions over the period of the time that repayments must be made for the bonds.

Prior to adopting an ordinance creating the increment area, an agreement must be entered into with any taxing district that levies regular property taxes on real property within the increment area or from any tax district choosing to participate in the public improvements. The governing body of each taxing district must authorize the agreement. In addition, the local government must estimate the impact of the increment area on small business and low-income housing and develop a mitigation plan for the impacted businesses and housing. In their analysis of the increment area's impact, the local government must develop: an inventory of existing low-income housing units, and businesses and retail activity within the increment area; a reasonable estimate of the number of low-income housing units, small businesses, and other commercial activity that may be

vulnerable to displacement inside the increment area; a reasonable estimate of projected net job growth and net housing growth caused by the creation of the increment area when compared to the existing jobs or housing balance for the area; and a reasonable estimate of the impact of the net housing growth on the current housing price mix. A small business is defined as an independently owned and operated business enterprise with 50 or less employees.

A public hearing on the proposed use of community revitalization financing for a public improvement project must occur at least 60 days prior to passage of the ordinance creating the increment area. The public hearing must be held either by the governing body of the local government or a committee of the governing body that includes at least a majority of the whole governing body.

In addition to the current publishing requirement, notice of the public hearing must also be sent via U.S. mail at least 30 days prior to the public hearing to all property owners, all identifiable community-based organizations with involvement in the proposed increment area and the business enterprises located within the proposed increment area. In addition, the local governing body may also consult with community-based groups, business organizations and the Office of Minority and Women's Business Enterprises to assist with providing appropriate notice to the business enterprises and property owners for whom English is a second language. In addition to the already required information, the notice must also estimate the impact that the public improvements will have on small businesses and low-income housing and inform the public where copies of the estimates and analysis of the increment area may be obtained.

Within one year of the creation of an increment area, a local government must amend its comprehensive plan or any other applicable comprehensive plan or land use plan adopted by a city, town or county.

#### Mitigation

A local government is required to mitigate adverse impacts to small businesses and low-income housing that results from the development or redevelopment financed by community revitalization financing. Conditions caused by the public improvements within the increment area that require mitigation include: the displacement of residents from ten or more inhabited residential units; the displacement of small businesses or loss of other commercial activity; or an increase or creation of a job/housing imbalance inconsistent with the local government's comprehensive plan. If possible the mitigation shall be consistent with the development or redevelopment goals of the public improvement project.

The local government is required to guarantee no net loss of low-income housing units, while retaining the range of prices and type of low-income units. The local government may address this commitment using any combination of public or private funding specifically allocated for mitigating the impact of development or redevelopment financed by community revitalization financing. If funds are appropriated to the Housing Trust Fund for mitigation purposes, the local government may apply for matching funds. The local government match must supplement funds spent for low-income housing within the jurisdiction and may include impact fees.

The local government is also required to guarantee housing relocation assistance to all households with incomes at or below 50 percent of the median income, adjusted for household size, of the county in which the increment area is located, that have been displaced due to public improvements within the increment area. In addition, the local government must provide

adequate relocation or financial assistance, including direct financial aid, to any business that has been displaced or forced to close due to the public improvements within the increment area.

### Civil Action

A right to commence a civil action in superior court against a local government utilizing community revitalization financing is granted to any person residing, owning real property or owning a business within the jurisdiction of the local government. The cause of action is based on: the expenditure of revenues derived from community revitalization financing, including the bond proceeds, for a purpose not authorized under this act or for activities outside the increment area's geographic boundaries; the failure to assess and mitigate impacts of the increment area; and the failure to meet the procedural requirements of the act.

If a court finds that the local government failed to substantially comply with this act, the court must order the local government to remedy the violation and may award equitable relief, damages, reimbursement for costs and reasonable attorney fees.

### Use of tax allocation revenues

The statute outlining the allocation of tax revenues is clarified to reflect the local government that adopted the increment ordinance begin receiving the increment value in the second calendar year following the passage of the ordinance creating the increment area. If there is no increment value, the local government does not receive any additional regular property taxes. The county assessor will allocate any increase in assessed value of real property occurring in the increment area to the increment value and the tax allocation base as appropriate.

The local government creating an increment area may also use annually any excess excise taxes received from the taxable activity within the increment area to finance the public improvement costs associated with the authorized public improvement financed in part or in whole by community revitalization financing. If tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements, then the use of excess excise taxes must end. Any participating taxing authority may allocate excess excise taxes to the local government to be used to finance public improvements using community revitalization financing.

If a local government consists solely of a port district, it may use excess excise taxes only to the extent that any participating taxing authority allocates its excess excise taxes to the local government. If a local government consists of a port and a city, town or county, it may use excess excise taxes only if the city, town or county realizes excess excise taxes from the taxable activity within the increment area or any participating taxing authority allocates its excess excise taxes to the local government.

For increment areas created prior to 2005, "excess excise taxes" means the amount of taxes received by the local government during the measurement year from taxable activity within the increment area over and above the amount of excise taxes received by the local government during the base year. If there was no activity taxable by the retail sales and use tax in the increment area during the 12 months preceding the creation of the increment area, the entire amount of excise taxes received during the measurement year is considered "excess excise taxes."

For increment areas created after 2005, "excess excise taxes" means the amount of excise taxes received by the local government during the measurement year from taxable activity within the increment area over and above an amount equal to 12 multiplied by the average monthly excise

tax receipts of the local government during the part of the year which, pursuant to legislation enacted in calendar year 2005, any retail is sourced to a location other than that of the retail outlet at or from which delivery is made. If no such legislation is enacted, the "excess excise taxes" will be calculated in the same manner as increment area created before 2005.

The local government must provide the Department of Revenue (DOR) with accurate information describing the geographical boundaries of the increment area at least 75 days before the effective date of the ordinance creating the increment area. The local government must ensure that the boundary information provided to the DOR is kept current. The DOR must provide the local government with the necessary information to calculate the excess excise taxes.

The DOR may adopt any rules it considers necessary to administer allocation of excess excise taxes.

### Reporting

A local government utilizing community revitalization financing is required to submit an annual report to the Department of Community, Trade & Economic Development (DCTED) by March 1 of each year. The report must include:

- the amount of tax allocation revenues and the local public sources received by the local government during the preceding calendar year and a summary of how those revenues were expended;
- the number of low-income housing units, small businesses, and other commercial activities that have been displaced inside the increment area due to the public improvements financed by community revitalization financing;
- the net job growth and the net housing growth caused by the creation of the increment area when compared to the jobs or housing balance existing in the area prior to the creation of the increment area;
- the impact of net housing growth on the current housing price mix;
- the nature and amount of mitigation assistance provided;
- the names of any businesses locating within the increment area as a result of the public improvements undertaken by the local government and financed in whole or in part with community revitalization financing;
- the total number of permanent jobs created as a result of the public improvements undertaken by the local government and financed in whole or in part with community revitalization financing;
- the average wages and benefits received by all employees of business locating in the increment area as a result of the public improvements undertaken by the local government and financed in whole or in part with community revitalization financing; and
- declarations that the local government is in compliance with RCW 39.89.030 (conditions for using community revitalization financing) and the local government is not currently out of compliance with the requirements of Planning Enabling Act according to a ruling by the Growth Management Hearing Board.

Beginning in calendar year 2009, the DCTED shall make a report available to the public and the legislature by June 1 of every fourth year. The report must include a list of public improvements undertaken by local government and financed in whole or in part with community revitalization

financing. It must also include a summary of the information provided in the local government's annual reports to the DCTED.

#### Bond Authorization

A local government may issue bonds to finance public improvements and may pledge for payment of such bonds all or part of any tax allocation revenues derived from the public improvements. The bonds must be authorized by the local governing body and may be issued in one or more series, must bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption with or without premium, be secured in such manner, and have such other characteristics, as may be provided by such ordinance or trust indenture or mortgage issued thereto.

The local government may annually pay a fixed proportion or fixed amount of any tax allocation revenues from the increment area into a fund established for the benefit of bonds issued. The payment should continue until all bonds payable from the fund are paid in full.

The signature of any public officials of the local government that appear on any bonds or coupons issued that cease to be such public officials before the delivery of the bond shall remain valid and sufficient for all purposes.

**Appropriation:** None.

**Fiscal Note:** Requested on February 7, 2005.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.